GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Smt. T. Lavanya, W/o S.Yugandar Dasu, Occ: Teacher, Nellore District, against the proceedings No. Rc.C5 (M)/1533/2013, dated 15.12.2013 of the District Collector, SPSR Nellore, under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) –Remanded back for afresh enquiry – Orders - Issued.

SOCIAL WELFARE (TW.CV.2) DEPARTMENT

G.O.Ms.No.23 Dated:08.02.2019
Read the following:

1. Proceedings of the District Collector, SPSR Nellore District Rc.No.C5(M)/1533/ 2013, dated 15.12.2013.
2. Appeal Petition filed by Smt. T.Lavanya W/o S.Yugandar Dasu, Occ:Teacher, MPUP School, Nelaballi, D.V.Satram (M), R/o Z.P.Boys High School,Bharat Nagar, D.No.4-16-218, Nayudupet, SPSR Nellore District before M(TW), No.79/M(TW)/2014, dt.15.02.2014.
3. Govt. Memo No.2465/CV.2/2014, dated 28.04.2014.
4. The Orders of the Hon'ble APHC in W.P.No.5015/2014, dated: 21.02.2014 filed by Smt. T. Lavanya.
5. From the District Collector, SPSR Nellore, Lr.No.Rc.No.C5(M)/1533/2013, dated: 26.10.2014 & 05.02.2015.
6. Govt. Memo No.2465/CV.2/2014, dated: 22.10.2018.

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ORDER:

In the reference 1st read above, the District Collector, SPSR Nellore has issued orders cancelling ST-Yerukula caste certificate, bearing No.1569/06, dated 23.09.2006 of Smt. Thota Lavanya, D/o Ramanaiah.

2. In the reference 2nd read above, Smt. T. Lavanya, W/o S.Yugandar Dasu, has filed an Appeal Petition before the Government, against the Proceedings of the District Collector, SPSR Nellore. After examining the said Appeal Petition, Government have admitted the Appeal Petition and called for the parawise remarks and connected records from the District Collector, SPSR Nellore in the reference 3rd read above.

3. In the reference 4th read above, Smt. T. Lavanya, W/o S.Yugandar Dasu has filed W.P.No.5015/2014 before the Hon'ble High Court of Andhra Pradesh, Hyderabad, against the proceedings No.Rc.C5 (M)/1533/2013, dated 15.12.2013 of the District Collector, SPSR Nellore. The Hon'ble High Court of A.P., while disposing the said WP on 21.02.2014 has directed the Government to hear the appeal or the application expeditiously, within four weeks from the date of receipt of the order and the impugned orders passed by the District Collector, dated 15.12.2013, shall not be given effect to pending orders to be issued by the Government. But, due to several administrative difficulties the matter could not be disposed off within the time limit as directed by the Hon'ble High Court in the said W.P., however, after giving notices from time to time to the Appellant through his Counsel the matter has been examined by the Appellate Authority.

4. In the reference 5th read above, the District Collector, SPSR Nellore has furnished the Parawise remarks and the connected records on the Appeal Petition filed by Smt. T. Lavanya, W/o S.Yugandar Dasu.

5. The said Appeal Petition has been posted for hearing on 03.11.2018 and the same has been informed to the Appellant and the Counsel for the Appellant in the reference 6th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government. The appellant / the Counsel for the appellant were attended for hearing scheduled on 03.11.2018 & argued the case.

[Contd..on P.2]

6. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant / the parawise remarks submitted by the District Collector, SPSR Nellore and proceedings of the District Collector, SPSR Nellore, dated 15.12.2013, the Appellate Authority is observed that :

I. The appellant in her grounds has stated that her mother belongs to ST-Yerukula community and father belongs to Balija (OC), it is admitted fact that , she was brought up by her mother, as per the school records and her mother has taken care of her well being since birth to till date. Further she has stated that she is also presently staying with the mother and the father has deserted the appellant and her mother for many years and accustomed to the tribal methods and behavior and the appellant has pursued her entire career as ST, with the help of her mother, ST certificate and later ST certificate was issued to the applicant.

II. The appellant has also further stated that the DLSC failed to observe that she was brought up by her mother and the father has deserted her mother. The District Collector ought to have given an opportunity to the appellant by way of a show cause notice, calling for explanation for the proposed action to be taken and the order of the District Collector is contrary.

III. The District Level Scrutiny Committee has observed that that before the DLSC appellant has stated that her father belongs to Balija (OC) and mother belongs to Yerukula(ST) community and she has relatives from mother's side and no relations from father's side and requested to confirm her caste as Yerukula-ST. In the instant case, all the family members of the appellant have married the Balija caste(OC) persons only. It is submitted that after the marriage between a tribal with a non-tribal, the main factor for consideration is whether the couple is accepted by the tribal society to which the tribal spouse belongs. If she is accepted by the Society, then their children shall be deemed to be Scheduled Tribe. In this case, they were not in the fold of Yerukula- ST community and they were not accepted by the tribal society. Further , the appellant has not produced any relievable documents in support of her ST-Yerukula community claim, expect Scholl certificates. Based on the DLSC findings, the District Collector, SPSR Nellore has cancelled the appellant's ST-Yerukula caste certificate.

IV. Under section 6 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

V. Further, it is observed that in Circular Memo No.10956/CV1/97-2, dt.16.2.1998 instructions were issued by the Government for issuance of Caste Certificates. As per the said instructions general instructions for claiming Community Certificates are as follows:

General Instructions :- (Applicable in all cases)
Where a person claims to belong to Scheduled Caste or Scheduled Tribe by birth it should be verified:-

i. that the person and the parents actually belong to the community claimed;
ii. that this community is included in the Constitution (Scheduled Castes and Scheduled Tribes) Order, 1950 as amended in 1976, which specified the Scheduled Castes or Scheduled Tribes in relation to the State of Andhra Pradesh;
iii. that the person belongs to the State of Andhra Pradesh and the area within the State in respect of which the community has been Scheduled;

V. Status of the Off-spring of a couple where one of the spouses is a member of Scheduled Caste and the other that of a Scheduled Tribe.

As regards the status of the off-spring whose father is a member of Scheduled Caste and mother of a Schedule Tribe, the prima-facie presumption is in favour of the child possessing the caste of the father, in the large majority of cases, having regard to the concept of domicile explained in para IV above. Apart from this, it may also be a relevant criterion to see whether the child has been accepted and assimilated in the Scheduled Caste community to which the father belongs. The same principal will also apply to the case of an off-spring whose mother is a member of a Scheduled Caste and father of a Scheduled Tribe. However, each case has to be examined in the light of the attendant facts and circumstances.

[Contd..on P.3]

VI. The Appellate Authority is observed that during the course of arguments, the appellant has stated that her mother belongs to ST Yerukula community as such she is also same community and also stated that her father deserted her and she was brought up by her mother and even as per school record she is Yerukula and she is having relations with her mother's relatives as such on that scores she is able to prove her caste as ST Yerukula. On verification of the arguments and the documents and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record it is noticed that it is just and necessary to give an opportunity to the appellant to produce documents and explanation to prove the claim of her social status in the present circumstances of the case with regard to her mother's caste claim and her brought up and acceptance of her by the tribal society and her relation with the relatives of her mother.

7. In the light of the above, the Government, in exercise of the powers conferred under Section 8(1) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), hereby decide that the appeal petition filed by Smt. T. Lavanya, W/o S.Yugandar Dasu, is partly allowed by setting aside the proceedings, Rc.No.C5(M)/1533/2013, dated 15.12.2013, of the District Collector, SPSR Nellore and decided that the matter is remanded back to District Collector, SPSR Nellore for fresh enquiry, with a direction to dispose of the same within three months as per law by giving opportunity to the appellant on receipt of the order by uninfluenced of the observation made herein.

8. The District Collector SPSR Nellore is directed to take necessary consequential action in the matter.

9. The records (containing Rc.No.C5(M)/1533/2013, dated 15.12.2013, pages CF: 1 to 32) received from the District Collector, SPSR Nellore through the reference 5th read above, are returned herewith in original to the District Collector, SPSR Nellore and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

R.P. SISODIA
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, SPSR Nellore.
(with original records) (BY RPAD)

Smt. T.Lavanya W/o S.Yugandar Dasu,
Occ:Teacher, MPUP School, Nelaballi,
D.V.Satram (M), R/o Z.P.Boys High School,Bharat Nagar,
D.No.4-16-218, Nayudupet, SPSR Nellore District.

M/s. G.Tuhin Kumar, Advocate,
R/o 1-1-700/B/1/2, Flat No. 202 Sri Vari Nilayam,
Street No.9, Near S.S. Musical Academy,
Gandhi Nagar, Hyderabad - 80

Copy to:

The Director, TCR& TI, AP, Amaravati.

The PS to M(TWE&HFW).
The PS to Principal Secretary(TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER